

FILED

11 MAR -1 AM 9:58

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:

DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BIAGEN IDEC, INC., and GENENTECH,
INC.,

Plaintiffs,

vs.

GLAXOSMITHKLINE LLC and GLAXO
GROUP LIMITED,

Defendants.

Case No. 10-CV-608 BEN (WVG)

**ORDER REGARDING
CLAIM-CONSTRUCTION
BRIEFING AND HEARING
PROCEDURE**

The following requirements and procedures shall apply to the claim-construction briefing and hearing – and to the preparations therefor – in this action:

I.

CLAIM-CONSTRUCTION HEARING

A. Date. On the Court's own motion, the hearing date is hereby **CONTINUED** from the originally-scheduled date, May 16, 2011, to **Friday, June 3, 2011, at 10:00 AM**.

B. Duration. The claim-construction hearing shall begin promptly and shall last no more than three (3) hours.

C. Hearing Equipment. The parties should not assume the availability of any Court-owned equipment and must plan accordingly.

D. Obtaining Leave of Court before Bringing Equipment to the Hearing Pursuant to

1 existing security regulations, no equipment is permitted to enter the courthouse without a signed
 2 order from the Court. To obtain the requisite leave of Court, a party shall file a motion, and lodge
 3 with chambers a proposed order, that itemizes each piece of equipment the party intends to bring to
 4 the hearing. The motion must be filed *no later than seven (7) calendar days before* the hearing.

5 E. Hearing Preparations. With the prior approval of the Courtroom Deputy, the parties
 6 may arrange to access the courtroom before the hearing to set up. Parties seeking early access shall
 7 contact the Courtroom Deputy telephonically, at (619) 557-6422, *not less than seven (7) calendar*
 8 *days before* the hearing, to obtain approval and coordinate arrival times, as appropriate.

9 II.

10 CLAIM-CONSTRUCTION BRIEFING

11 The Court grants the parties leave to file, concurrently with their opening and rebuttal
 12 claim-construction briefs, declarations from their respective expert witnesses, as proposed in the
 13 Joint Hearing Statement. [Doc. # 37.] However, the grant of leave to file such extrinsic evidence
 14 does not mean that such evidence shall be accorded weight. See, e.g., Vitronics Corp. v.
 15 Conceptronic, Inc., 90 F.3d 1576 (Fed. Cir. 1996).

16 III.

17 TUTORIALS

18 A. Submission of Science/Technology Tutorial. Plaintiffs and Defendants may submit
 19 tutorials describing the science, technology, and matters in issue for the benefit of the Court.
 20 While the Court encourages the parties to collaborate on – and submit – a joint tutorial, the Court
 21 shall accept a separate tutorial from each side, for a total of two (2) tutorials. Any tutorials
 22 submitted must be filed not less than *seven (7) calendar days before* the claim-construction
 23 hearing.

24 B. Format of Tutorial. If the parties wish to provide a tutorial in a format other than
 25 Microsoft Powerpoint,TM VHS, or DVD, they must contact Chambers prior to filing to confirm that
 26 the Court's existing technology can access the tutorial content. Failure to submit the tutorial in a
 27 format accessible by the Court may result in the striking of that tutorial.

28 C. Tutorial Filing Procedure. Parties choosing to file a tutorial shall, by the deadline

1 stated above, file at the Clerk's Window: (1) a "Notice of Conventional Filing" setting forth a short
2 description of the format and content of the tutorial and (2) two identical copies of the tutorial, of
3 which one shall be labeled, "Chambers' Copy." The Clerk of the Court shall retain the other copy
4 for the *public record* of these proceedings.

5 **IT IS SO ORDERED.**

6
7 Dated: February 18, 2011


8 THE HONORABLE ROGER T. BENITEZ
9 UNITED STATES DISTRICT JUDGE
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28